



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

NO PROTEST RECEIVED

Release to Manager, EO Determinations - Cincinnati

DATE: [REDACTED]

SURNAME [REDACTED]

Date: 10/19/2002

Contact Person: [REDACTED]

Identification Number: [REDACTED]

Contact Number: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, you have failed to establish that you qualify for exemption under that section. The basis for our conclusion is set forth below.

Facts:

You were incorporated on [REDACTED]. According to your Articles of Incorporation, you are a "professional corporation" formed for the following purposes:

- to raise public awareness of human rights violations;
- to remove all restrictions on and discrimination against religious, linguistic, and ethnic minorities;
- to eliminate discrimination against women and to support their democratic rights;
- to create a special research center and publication to further the cause of peace, freedom, social justice, and democracy;
- to end torture and capital punishment;
- to fight for the establishment of peace, freedom, social justice, and parliamentary democracy in accordance with the United Nations chapter [sic] and the Declaration of Human Rights; and,
- to engage in any lawful act or activity for which a nonprofit corporation organized under the laws of [REDACTED] is permitted to engage in.

Such language is repeated in your application Form 1023 to explain your activities. In addition, you state that your "[REDACTED]" are:

- [to] invite the cooperation of individuals, personalities, political and social organizations in the [redacted] and in the international community to fight for peace, social justice, and democracy;
- to encourage the governments in [redacted] to observe the [redacted]; [and],
- to inform and influence public opinion on the human and economic costs of human rights violations and its international ramifications.

In our letter of [redacted], we stated that we needed further clarification of your proposed or actual activities and asked you to submit a detailed description of how you operate or will operate to achieve your purposes. In your letter of [redacted], you responded that, for each of your purposes:

The Board Members will conduct this activity with help from other volunteers. The [redacted] goals and objectives will be fulfilled by publication of newspaper and magazine articles, radio and television interviews, and contacts with national and international human rights organizations as well as individuals dedicated to these issues. Also, the establishment of an Internet web site will allow further expansion of contacts and public involvement.

In our letter of [redacted], we asked you to submit copies of the information you disseminate to the public. In your response of [redacted], you write: "Enclosed please find a copy of the preliminary web site pages for the [redacted] [redacted]." Those web site pages referred to an organization named "[redacted]". According to the "[redacted]" page, the mission of the [redacted] (also referred to as [redacted]) is:

- To support the democratic movement in [redacted]. To advocate human rights for all [redacted] based on the principles explained in the Universal Declaration of Human Rights;
- To promote free and fair elections in [redacted] [and],
- To advocate that religion and state be separate in order to foster pluralism and equality under the law for all [redacted], regardless of ethnicity, gender, and/or religion.

The following information is found on the "[redacted]" page under the subheading "[redacted]":

- [redacted] is not a political party and subscribes to no particular ideology. [redacted] is a non-profit organization comprised of volunteers who cooperate and collaborate in the quest for democracy and human rights in [redacted].
- [redacted] includes a number of [redacted] as well as international personalities dedicated to the cause of democracy and human rights in [redacted].

Accompanying your letter of [REDACTED], was an article titled "[REDACTED]" written by [REDACTED] and published as [REDACTED] by the [REDACTED]. In our letter of [REDACTED], we asked you to explain the relationship of the article to your activities. In response, you stated that the article "is an example of a scholarly work done by one of the members of the [REDACTED]. ... We endorse the publication of this article since it is in support of this [REDACTED] objectives which are to disseminate information to further the cause of peace and social justice in [REDACTED]".

In our letter of [REDACTED], we noted your intention to publish newspaper and magazine articles and asked you to provide copies of articles you have produced. In your response of [REDACTED], you provided:

- An article titled "[REDACTED]" by "[REDACTED]" dated "[REDACTED]";
- An article titled "[REDACTED]" by [REDACTED] and [REDACTED] dated [REDACTED];
- A letter from [REDACTED] to [REDACTED] dated [REDACTED], on the subject of "[REDACTED]";
- Letters from [REDACTED] to [REDACTED], [REDACTED], two offices of the [REDACTED], and the [REDACTED], dated [REDACTED], on the subject of [REDACTED];

In our letter of [REDACTED], we asked you about the intended audience of your publications and articles. You replied that:

The intended audience of our publications are all people interested in issues of human rights and democracy in [REDACTED] in general and [REDACTED] in particular. ... Communication and dissemination of information are done through our publications on our website, and articles to be published in [REDACTED] publications ([REDACTED], [REDACTED] and [REDACTED]).

In your response to our request for information about "[REDACTED]" and its relationship to you, you replied:

Additionally we would like to develop an international solidarity coalition comprised of experts in human rights and supporters of democracy. ... The coalition is to be called "[REDACTED]" or [REDACTED] for short. We have not at this point proceeded with the formation of this coalition since we are waiting for your approval of our status.

[REDACTED] is the coalition we are hoping to put together.... Our website is to use [REDACTED] as a framework to bring together the coalition of

In our letter of [REDACTED], we asked you to explain whether [REDACTED] would be established as a separate organization with its own governing body. In your response of [REDACTED], you stated: "[REDACTED] ([REDACTED]) is a campaign and part of the planned activities of the [REDACTED] [REDACTED] in the [REDACTED] area.... It is not a separate organization."

We asked you to describe the purposes and proposed activities of [REDACTED]. In response, you stated: "The purpose and activities of the [REDACTED] campaign are to gather international support for democracy and human rights in [REDACTED]."

We asked you to explain whether your scholarly research and publications would be made available to the general public or have a restricted circulation. In response you stated: "The scholarly research and publications will be made available to the general public."

By letter of [REDACTED], you informed us that you had reorganized your web site. You have posted the following articles on the reorganized web site:

- The article by [REDACTED] titled "[REDACTED]" published in [REDACTED];
- A charter issued by the [REDACTED] dated [REDACTED];
- A news article by a group called "[REDACTED] ..." dated [REDACTED];
- A "[REDACTED]" in [REDACTED] released by the [REDACTED] on [REDACTED];
- A letter by [REDACTED] dated [REDACTED];
- A "[REDACTED]" issued by the [REDACTED] undated;
- A listing of "[REDACTED]";
- The text of the "[REDACTED]" source unknown;
- An article titled "[REDACTED]" compiled and edited by [REDACTED] in 1998.

You have a five-member Board of Directors. Your directors are: [REDACTED], who holds the position of [REDACTED], [REDACTED], who holds the position of [REDACTED], [REDACTED], who holds the position of [REDACTED], [REDACTED], who holds the position of [REDACTED], and, [REDACTED], who holds the position of [REDACTED]. [REDACTED] and [REDACTED] are husband and wife, and live in [REDACTED]. The other directors live in various places [REDACTED].

In our letter of [REDACTED], we asked that you provide the resumes of your directors. The resume of [REDACTED], your [REDACTED], includes "A brief biography" which states, in part:

[REDACTED] I was instrumental in founding the [REDACTED] [REDACTED], challenging the [REDACTED] dictatorial rule with armed struggle. I along with my friends and supporters, was actively involved in the [REDACTED] against the [REDACTED] for the establishment of constitutional and democratic government to observe the [REDACTED] and respect for [REDACTED]. Shortly after [REDACTED] reached [REDACTED], he, himself became an absolute ruler.

[REDACTED] I announced [REDACTED] for [REDACTED] to represent [REDACTED] of [REDACTED]. Although I was elected with a comfortable majority, I was denied the seat in [REDACTED] and declared [REDACTED], a declaration that carries with it [REDACTED].

Consequently, I formed the [REDACTED] [REDACTED], which began an armed struggle against the [REDACTED]....

[REDACTED] I met [REDACTED] and decided to establish a [REDACTED] [REDACTED]. ... Prior to [REDACTED], I was invited to join the [REDACTED] created by [REDACTED] and elected to [REDACTED] in [REDACTED].

[REDACTED] ... I invited [REDACTED] [REDACTED], but who desired the formation of a society based on separation of church and state, observance of [REDACTED] and respect for international law and human rights to meet and deal [REDACTED]. The first [REDACTED] met in [REDACTED] in [REDACTED] as a beginning step towards [REDACTED].

Article II of the Bylaws provides that "Each director shall hold office until the next annual meeting and until his successor shall have been elected and qualified. Directors may be re-elected."

Article III of the Bylaws provides that "officers of the corporation ... shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting." In addition, it provides that "the salaries, compensation and other benefits ... of the officers shall be fixed from time to time by the Board of Directors" and no officer shall be prevented from receiving such salary by reason of the fact that he or she is also a Director of the foundation."

Law:

Section 501(c)(3) of the Internal Revenue Code exempts from federal income taxation corporations, trusts, and associations organized and operated exclusively for charitable, educational, and other exempt purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization: (a) limit the purposes of such organization to one or more exempt purposes; and (b) do not expressly empower the organization to engage, other than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized and operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" is used in section 501(c)(3) in its generally accepted legal sense, and includes the promotion of social welfare by organizations designed to eliminate prejudice and discrimination and to defend human and civil rights secured by law.

Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term "educational," as used in section 501(c)(3) relates to: (a) the instruction or training of the individual for the purpose of improving or developing his capabilities; or (b) the instruction of the public on subjects useful to the individual and beneficial to the community. An organization may be educational even though it advocates a particular position or viewpoint as long as it presents a sufficiently full and fair exposition of the pertinent facts as to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

Rev. Proc. 86-43, 1986-2 C.B. 729, provides criteria used by the Service to determine the circumstances under which advocacy of a particular viewpoint or position by an organization is

considered educational within the meaning of section 501(c)(3) of the Code. The method used by the organization will not be considered educational if it fails to provide a factual foundation for the viewpoint or position being advocated, or if it fails to provide a development from the relevant facts that would materially aid a listener or reader in the learning process.

The presence of any of the following factors in the presentations made by the organization is indicative that the method used by the organization to advocate its viewpoints or positions is not educational: (1) the presentation of viewpoints or positions unsupported by facts is a significant portion of the organization's communications; (2) the facts that purport to support the viewpoints or positions are distorted; (3) the organization's presentations make substantial use of inflammatory and disparaging terms and express conclusions more on the basis of strong emotional feelings than of objective evaluations; and (4) the approach used in the organization's presentations is not aimed at developing an understanding on the part of the intended audience or readership because it does not consider their background or training in the subject matter.

Rev. Rul. 80-278, 1980-2 C.B. 175, provides that, in determining whether an organization meets the operational test, the issue is whether the particular activity undertaken by the organization is appropriately in furtherance of the organization's exempt purpose, not whether that particular activity in and of itself would be considered charitable. Moreover, the fact that the activity reflects a particular viewpoint or opinion on a controversial issue does not preclude the organization from qualifying for exemption under section 501(c)(3) of the Code. The law of charity provides no basis for weighing or evaluating the objective merits of specific activities carried on in furtherance of a charitable purpose if those activities are reasonably related to the accomplishment of the charitable purpose and are not illegal or contrary to public policy. Therefore, in making the determination of whether an organization's activities are consistent with exemption under section 501(c)(3), the Service will rely on a three-part test. The organization's activities will be considered permissible under section 501(c)(3) if: (1) the purpose of the organization is charitable; (2) the activities are not illegal, contrary to a clearly defined and established public policy, or in conflict with express statutory restrictions; and, (3) the activities are in furtherance of the organization's exempt purpose and are reasonably related to the accomplishment of that purpose.

Rev. Proc. 90-27, 1990-1 C.B. 514, sets forth procedures with regard to applications for recognition of exemption from federal income tax under section 501 of the Code.

Section 5.01 of Rev. Proc. 90-27 provides that a ruling or determination letter will be issued to an organization provided its application and supporting documents establish that it meets the particular requirements of the section under which exemption is claimed.

Section 5.02 of Rev. Proc. 90-27 provides that exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of

[REDACTED]

the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling or determination letter will be considered an initial adverse determination from which administrative appeal or protest rights will be afforded.

Analysis:

On the basis of the information contained in your application and subsequent correspondence, we have determined that you have failed to establish that you qualify for recognition of exemption under section 501(c)(3) of the Code because (1) you are not organized exclusively for exempt purposes; (2) it is uncertain whether your activities accomplish any educational or other exempt purpose; and (3) it is uncertain whether you will serve a public interest rather than a private interest.

In your articles of incorporation, you state you are a "professional corporation" formed for seven listed purposes. None of those purposes are, in and of themselves, necessarily charitable under section 501(c)(3) of the Code. For instance, one of your purposes is "to engage in any lawful act or activity for which a nonprofit corporation organized under the laws of [REDACTED] is permitted to engage in." Since your organizing purposes are not limited to exempt purposes within the meaning of section 501(c)(3) of the Code, you do not meet the organizational test requirements under section 1.501(c)(3)-1(b)(1) of the regulations.

You state that you are organized to raise public awareness of human rights violations, to eliminate discrimination against religious and ethnic minorities, and to fight for the establishment of peace, social justice, and democracy in [REDACTED]. The promotion of social welfare by organizations designed to eliminate prejudice and discrimination and to defend human and civil rights secured by law is a charitable purpose under section 1.501(c)(3)-1(d)(2) of the regulations. The question is whether your activities serve to accomplish such purpose.

You state that you will fulfill your goals and objectives by the publication of articles, through media interviews, and through contacts with [REDACTED]. The publication of articles in various media can be an activity that accomplishes exempt purposes if it is "educational" within the meaning of section 1.501(c)(3)-1(d)(3) of the regulations. An activity is educational if it involves "the instruction of the public on subjects useful to the individual and beneficial to the community." An organization that advocates a particular position or viewpoint may be educational so long as it presents a full and fair exposition of the facts and if its principal function is not the mere presentation of unsupported opinion.

You have not provided sufficient information for us to conclude that your activities are educational. For one thing, the representative articles and letters you provided us in support of your application are addressed to a small number of individuals rather than to the larger public, and appear to be more propagandistic and conclusory than objective and expository. For instance, the letters written by [REDACTED] to [REDACTED] are intended to communicate with particular individuals

rather than to instruct the general public. Furthermore, their content appears to be more the personal opinions of [REDACTED] than a full exposition of facts.

For another thing, you have not adequately described the purpose, scope, and conduct of your proposed writing and publishing activities. Your web site serves primarily to host a collection of documents and previously published articles issued by persons and organizations for the most part unrelated to you. Merely hosting a collection of disparate writings is not indicative of any program on your part to provide instruction to the public. Therefore, we cannot determine that your activities will provide instruction to the public within the meaning of section 1.501(c)(3)-1(d)(3) of the regulations or otherwise promote exempt purposes.

You intend to form an organization, [REDACTED], which will function as an international solidarity coalition of human rights advocates to [REDACTED]. On your web site, you identify [REDACTED] as "a non-profit organization comprised of volunteers who cooperate and collaborate in the quest of [REDACTED]." However, in your letter of [REDACTED], you state that [REDACTED] "is not a separate organization," but, instead, "a campaign and part of the planned activities of [REDACTED]...." When we asked you to describe the activities of [REDACTED], your entire answer was: "The purposes and activities of the [REDACTED] campaign are to gather international support for [REDACTED]." Insofar as your President, [REDACTED], has been involved in various [REDACTED] in opposition to the [REDACTED], we are unable to conclude from the information provided that [REDACTED] would not be used to intervene in political campaigns, to conduct activities that [REDACTED], or, generally, to act in ways that do not further exempt purposes within the meaning of section 501(c)(3) of the Code.

You are controlled by a five-member Board of Directors. Your directors are likewise your officers. Officers are elected by directors, and directors are authorized to fix the salary, compensation and other benefits of officers. Your President, [REDACTED], and your [REDACTED], Shahin Mafi, [REDACTED] and [REDACTED]. Therefore, your directors and officers appear to represent the personal interests of a few individuals rather than the interests of the community.

Your activities will be conducted by your directors, and, particularly, by [REDACTED]. The articles and letters of [REDACTED] appear to function as vehicles for promulgating the personal opinions of, and advocating causes espoused by, [REDACTED] rather than as "full and fair" expositions of a subject for the purpose of instructing the public. Furthermore, the [REDACTED] could well serve to further the political objectives and ambitions of [REDACTED] as opposed to serving a public interest. Therefore, we cannot conclude that you will be operated to serve a public interest rather than the private interests of [REDACTED] and other members of your Board of Directors. Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization that serves private interests is precluded from exemption under section 501(c)(3) of the Code.

Conclusion:

Accordingly, you have failed to establish that you qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

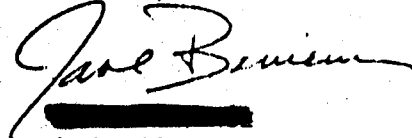
Internal Revenue Service
[REDACTED]
[REDACTED]

1111 Constitution Ave, N.W.
Washington, D.C. 20224

In the alternative, you may fax your letters to [REDACTED].

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,



Acting Manager
Exempt Organizations

